

REMARKS

The Final Office Action dated September 2, 2008 has been received and carefully noted. In response thereto, Applicants request entry and consideration of the above noted amendments to the claims in conjunction with the following remarks. Applicants submit that no new claims have been added to the application, no claims have been cancelled from consideration, and that no new matter has been introduced via the above noted amendments. Therefore, claims 35-49 and 51-65 are pending and submitted for consideration herein. Further, Applicants submit that the claim amendments presented herein merely clarify issues for appeal, do not present new matter, and will not require further searching by the Examiner. Entry and consideration of the amendments is respectfully requested.

I. Rejections under 35 U.S.C. §112

Independent claims 35 and 48 were rejected under 35 U.S.C. §112 first paragraph. Applicants respectfully traverse this rejection.

With respect to claim 35, the Office Action states that the Examiner could not find support in the specification for the newly added limitation “wherein the intermediary account number is different from the end-user account number.” However, paragraph 23 of the specification of the present application teaches the following: “The card user makes a payment to the merchant, for example in cash, and presents the user’s account identifier. This refers to the intermediary account which is maintained on the pre-payment processor 40. It is not the same as the end-user account which would be maintained at the carrier’s prepaid platform 112.” Thus, support for the claim 35 element of “wherein the intermediary account number is different from the end-user account number,” may be found at least at paragraph 23 of the present application.

Further, with respect to claim 48, the Office Action states that the Examiner could not find support in the specification for the newly added limitation “the transaction data including the end-user account identifier.” However, paragraph 26 of the specification of the present application teaches the following: “After the payment transaction between the payment processor 40 and the point-of-sale terminal 32 is completed, the processor 40 then provides a load notification signal 114 to the carrier prepaid platform 112. This load notification identifies the end-user account that

corresponds to (having been previously associated with) the intermediary account number presented by the card user at the point-of-sale.” Thus, support for the claim 48 element of “the transaction data including the end-user account identifier,” may be found at least at paragraph 23 of the present application.

Claims 36-39, 49, and 51-58 were rejected under 35 U.S.C. §112 first paragraph because of their dependency from claims 35 and 48. As shown above, claims 35 and 48 satisfy 35 U.S.C. §112 first paragraph. Thus, Applicants also respectfully request that the Examiner withdraw the rejection of claims 36-39, 49, and 51-58 35 under U.S.C. §112, first paragraph.

Claim 49 was rejected under 35 U.S.C. §112, second paragraph. Claim 49 is currently amended to remedy the former lack of antecedent basis with respect to the element of “the end-user’s intermediary account number.” Accordingly, the foregoing element now recites “intermediary account number.” Thus, Applicants respectfully request that the Examiner withdraw the rejection of claim 49 under 35 U.S.C. §112, second paragraph.

II. Rejections under 35 U.S.C. § 102

Claims 40-42, 59-61, and 63-64 were rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,000,608 to Dorf (hereinafter referred to as “Dorf”). This rejection is respectfully traversed.

A. Independent Claim 40

Claim 40 is not anticipated by Dorf at least because Dorf fails to teach or show an “intermediary account number,” and also fails to teach or show “**associating** an account identifier that represents an end-user’s prepaid account maintained by a telecommunications provider with an **intermediary account number**,” as recited in amended claim 40.

The Office Action alleges that the prepaid card identification number of Dorf teaches the “intermediary account number” recited in claim 40. However, the prepaid card identification number in Dorf is the same number that is sent from a point of sale to a processing hub (Dorf, col. 7, ll. 3-5). Further, the prepaid card identification number in Dorf is the same number that is received and processed at an issuer hub (Dorf, col. 7, ll. 9-13, 15-18). Thus, the prepaid card identification number that is received at the point of sale is the same number that is received and processed at the

issuer hub. This is disclosed in Dorf as follows: “When the issuer hub 104 receives the data from the processing hub 103, **it activates the record in the phone card database 204 having the same identification number as the card 101**” (Dorf, col. 7, ll. 15-18, **emphasis added**).

Because the same prepaid card identification number is used throughout the process taught by Dorf, Dorf fails to teach an “intermediary account number” and “associating an account identifier that represents an end-user’s prepaid account maintained by a telecommunications provider with an intermediary account number,” as recited in claim 40. Furthermore, in the system taught by Dorf, there is no need to “store the association in a database coupled to a central payment processor, wherein the association includes information that allows the central payment processor to identify the end-user’s prepaid account when presented with the account identifier . . . [, and look] up the intermediary account number associated with the account identifier,” as recited in claim 40, because the system of Dorf uses the same prepaid card identification number through the process.

In contrast, the present application teaches that the intermediary account is different from the end-user account as follows: “The card user makes a payment to the merchant, for example in cash, and presents the user’s [intermediary] account identifier. This refers to the intermediary account which is maintained on the pre-payment processor 40. **It is not the same as the end-user account which would be maintained at the carrier’s prepaid platform 112.**” (Application, ¶25, **emphasis added**). Accordingly, because the intermediary account is different from the end-user account, an “association” must be made between the intermediary account identifier and the end-user’s prepaid account identifier, as recited in claim 40.

Thus, Dorf fails to teach an “intermediary account number” and “associating an account identifier that represents an end-user’s prepaid account maintained by a telecommunications provider with an intermediary account number,” as recited in claim 40. Therefore, Applicants respectfully submit that Dorf clearly fails to teach or show each and every limitation recited in independent claim 40 as amended, and as such, reconsideration and withdrawal of the rejection of claim 40 under 35 U.S.C. §102(e) over Dorf, and all claims depending therefrom, is respectfully requested.

B. Dependent Claims 41-42, 59-61, and 63-64

Claims 41-42, 59-61, 63, and 64 were also rejected under 35 U.S.C. §102(e) over Dorf. Claims 41-42, 59-61, 63, and 64 depend from claim 40, and therefore include at least the elements of

claim 40 that have been presented above. Thus, Applicants submit that claims 41-42, 59-61, 63, and 64 are also allowable over Dorf for the same reasons as noted above with respect to claim 40. Therefore, at least for this reason, it is respectfully submitted that the rejection of claims 41-42, 59-61, 63, and 64 under 35 U.S.C. §102(e) over Dorf should also be withdrawn.

With respect to claim 41, the Office Action fails to cite the specific sections of Dorf that teach that the “electronically communicating step comprises direct communication between the point-of-sale and the central payment processor,” as recited in Applicants’ claim 41. However, Applicants note that Dorf merely teaches that a POS device 105 communicates with a processing hub 103 via a sponsor bank processor 102. (Dorf, Fig. 1, cols. 5-6), and as such, Dorf fails to teach or show that the “electronically communicating step comprises direct communication between the point-of-sale and the central payment processor,” as recited in claim 41. Further, claim 41 depends directly from claim 40, and therefore includes at least the elements of claim 40, which has been shown above to be allowable. At least for these additional reasons, Applicants respectfully request that the Examiner withdraw the rejection of claim 41 under 35 U.S.C. §102(e) over Dorf.

III. Rejections under 35 U.S.C. § 103

A. Rejection of Claims 35-36, 38-39, 48-49, 52-53, and 57-58 under 35 U.S.C. §103(a) over Dorf in view of Hogan

Claims 35-36, 38-39, 48-49, 52-53, and 57-58 were rejected under 35 U.S.C. §103(a) over Dorf in view of U.S. Patent No. 5,704,046 to Hogan (hereinafter referred to as “Hogan”). The Office Action took the position that Dorf teaches each and every limitation recited in the rejected claims, except for the limitation of “wherein the intermediary account number is different from the end-user account identifier.” However, the Office Action cited to Hogan as teaching this limitation and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claims. Applicants respectfully traverse the rejection and submit that each of the rejected claims recites limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

1. Independent Claims 35 and 48

Claims 35 and 48 each expressly recite an “intermediary account number.” Hogan teaches a sub-account number at the following cited portions: “the account number identifies the account associated with card 100 for billing purposes. The card number acts as a sub-account number identifying additional cards issued under the same account number. Thus, for example a spouse may possess an associated financial card having the same account number but a different card number” (Hogan, col. 5, line 66 to col. 6, line 5).

However, nowhere in Hogan is there any teaching, showing, or suggestion of an intermediary account number, as expressly recited in each of Applicant’s claims. As such, Applicants submit that Hogan fails to further the teaching of Dorf to the level necessary to properly support an obviousness rejection of Applicants’ claims. Therefore, reconsideration and withdrawal of the rejection of independent claims 35 and 48 is respectfully requested.

As the PTO recognizes in MPEP § 2142:

... The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness...

In the present application, a prima facie case of obviousness does not exist for the claims for the reasons set forth below.

a. The Examiner has not shown that all words in the claim have been considered

MPEP 2143.03 states that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” Quoting *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970). However, in the present matter, the Office Action has not shown that all words in the rejected claims have been considered. For example

Claims 35 and 48 recite an “intermediary account number.” In contrast, neither Dorf nor Hogan teaches, shows, or even suggests an intermediary account number. Dorf’s failure to teach an intermediary account number is set forth above with respect to claim 40, and is hereby incorporated with respect to claims 35 and 48.

Further, Hogan also fails to teach, show or suggest an intermediary account number. Paragraph 23 of the present application states that the intermediary account identifier “refers to the intermediary account which is maintained on the pre-payment processor 40. It is not the same as the end-user account which would be maintained at the carrier's prepaid platform 112.” In contrast, the cited portions of Hogan merely teach a sub-account card number that is related to a primary account card number. A careful reading of the cited portions does not support the Office Action’s conclusion that Hogan teaches an “intermediary account number” as recited in claims 35 and 48.

Even when combined, Dorf and Hogan merely teach a prepaid card identification number, which may be a sub-account number, that is the same number that is received at a processing hub. Thus, even when combined, Dorf and Hogan fail to teach an “intermediary account number,” as recited in claims 35 and 48.

Accordingly, neither Dorf nor Hogan, whether taken alone or in combination, teaches, shows, or even suggests an “intermediary account number.” It is submitted that, in the present case, the Office Action has not factually supported a *prima facie* case of obviousness for this mutually exclusive reason.

b. Prior art that teaches away from the claimed invention cannot be used to establish obviousness

KSR maintained the long-standing principal that “when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious.” *KSR* at 1740. In the present case the Dorf reference, by providing using a single account/identification number throughout the entire processing sequence, clearly teaches away from “a database associating each of a plurality of intermediary account numbers with at least one corresponding end-user account number . . . wherein the intermediary account number is different from the end-user account number,” as recited in claim 30.

Thus, for this reason alone, the examiner’s burden of factually supporting a *prima facie* case of obviousness has clearly not been met, and the rejection of independent claims 35 and 48 under 35 U.S.C. §103 should be withdrawn.

2. Dependent Claims 36, 38-39, and 57-58

Claims 36, 38-39, and 57-58 were also rejected under 35 U.S.C. §103(a) over Dorf in view of Hogan. However, claims 36, 38-39, and 57-58 depend from claim 35, and therefore include at least the elements of claim 35. Thus, claims 36, 38-39, and 57-58 are also allowable over Dorf in view of Hogan for the same reasons as noted above with respect to claim 35. Therefore, at least for the reasons set forth above with respect to claim 35, it is respectfully submitted that the rejection of claims 36, 38-39, and 57-58 under 35 U.S.C. §103(a) over Dorf in view of Hogan should also be withdrawn.

3. Dependent Claims 49 and 52-53

Claims 49 and 52-53 were also rejected under 35 U.S.C. §103(a) over Dorf in view of Hogan. However, claims 49 and 52-53 depend from claim 48, and therefore include at least the elements of claim 48, which has been shown above to be allowable. Thus, claims 49 and 52-53 are also allowable over Dorf in view of Hogan for the same reasons as noted above with respect to claim 48. Therefore, at least for the reasons set forth above with respect to claim 48, it is respectfully submitted that the rejection of claims 49 and 52-53 under 35 U.S.C. §103(a) over Dorf in view of Hogan should also be withdrawn.

B. Rejection of Claims 43, 45-47, and 62 under 35 U.S.C. §103(a) over Dorf in view of Muehlberger

Claims 43, 45-47, and 62 were rejected under 35 U.S.C. 103(a) over Dorf in view of U.S. Patent No. 5,696,908 to Muehlberger (hereinafter referred to as "Muehlberger"). The Office Action took the position that Dorf teaches each and every limitation recited in the rejected claims, except for electronic funds transfer (claim 43), the collecting step is effecting via the ACH (claim 45), and the point-of-sale terminal comprises a vending machine (claim 62). However, the Office Action cited to Muehlberger as teaching the foregoing elements, and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claims. Applicants respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claims 43, 45-47, and 62 depend from independent claim 40, and therefore include at least the elements of independent claim 40, which has been shown above to be allowable. Thus, claims

43, 45-47, and 62 include at least the element of an “intermediary account number,” as recited in independent claim 40. As set forth above with respect to claim independent 40, Dorf fails to teach an intermediary bank account as recited in claim 43. Muehlberger fails to cure this shortcoming of Dorf.

Muehlberger merely teaches a processor, which may be an electronic clearing house or a bank. A phone card dispenser may call the processor after it reads a credit card to verify that the credit card is valid. In addition, the processor will verify the availability of funds, and in the case of an ATM card, will check the validity of a PIN number. In the case that the processor is a clearing house, the electronic transfer or conversion is routed to the card issuer (e.g., a local or long distance carrier), who will then respond to the phone card dispenser via the clearing house. However, if the processor is a bank that issued the phone card, then the bank may approve/reject the transaction. Upon successful verification, the processor will debit the cardholder’s account and transfer funds to the card dispenser operator’s account (Muehlberger col. 5, ll. 65-67; col. 6, ll. 1-15). Thus, nowhere does Muehlberger teach, show, or suggest an “intermediary account number,” as recited in claim 40.

Therefore, Applicants submit that the cited combination of Dorf and Muehlberger fails to render Applicants’ claims obvious, as neither of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number” that is recited in claim 40. As such, reconsideration and withdrawal of the rejection of claims 43, 45-47, and 62 under 35 U.S.C. §103(a) over Dorf in view of Muehlberger is respectfully requested.

C. Rejection of Claims 37, 54, and 55 under 35 U.S.C. §103(a) over Dorf in view of Hogan, and further in view of Muehlberger

Claims 37, 54, and 55 were rejected under 35 U.S.C. §103(a) over Dorf in view of Hogan, and further in view of Muehlberger. The Office Action took the position that Dorf, Hogan, and Muehlberger teach the elements of claims 37, 54, and 55, and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claims. Applicants respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claim 37 depends from independent claim 35, and therefore includes at least the elements of claim 35, which has been shown above to be allowable. Thus, claim 37 includes at least the element of an “intermediary account number,” as recited in claim 35. As set forth above with respect to claim 35, Dorf and Hogan, whether taken alone or in combination, fail to teach an intermediary bank account as recited in claim 35. Further, as set forth above with respect to the rejection of claims 43, 45-47, and 62, Muehlberger also fails to teach, show or suggest an “intermediary account number.” Therefore, reconsideration and withdrawal of the rejection of claim 37 under 35 U.S.C. §103(a) over Dorf in view of Hogan, and further in view of Muehlberger is respectfully requested.

Claims 54 and 55 depend from independent claim 48, and therefore include at least the elements of claim 48, which has been shown above to be allowable. Thus, each of claims 54 and 55 include at least the element of an “intermediary account number,” as recited in claim 48. As set forth above with respect to claim 48, Dorf and Hogan, whether taken alone or in combination, fail to teach an either “intermediary account number” as recited in claim 48. Further, as set forth above with respect to the rejection of claims 43, 45-47, and 62, Muehlberger also fails to teach, show or suggest an either “intermediary account number.”

Therefore, Applicants submit that the cited combination of Dorf, Hogan and Muehlberger fails to render claims 54 and 55 obvious, as none of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number.” Thus, reconsideration and withdrawal of the rejection of claims 54 and 55 under 35 U.S.C. §103(a) over Dorf in view of Hogan, and further in view of Muehlberger is respectfully requested.

D. Rejection of Claim 44 under 35 U.S.C. §103(a) over Dorf in view of Muehlberger and further in view of Risafi

Claim 44 was rejected under 35 U.S.C. §103(a) over Dorf in view of Muehlberger and further in view of U.S. Patent No. 6,473,500 to Risafi (hereinafter referred to as “Risafi”). The Office Action took the position that Dorf in view of Muehlberger teaches each and every limitation recited in the rejected claim 44, except for the collecting step is carried out in a batch mode on a daily basis. However, the Office Action cited to Risafi as teaching this limitation recited in the rejected claim, and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claim. Applicants

respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claim 44 depends from independent claim 40, and therefore includes at least the elements of claim 40, which has been shown above to be allowable. Thus, claim 44 includes at least the element of an “intermediary account number,” as recited in claim 40. As set forth above with respect to claims 43, 45-47, and 62, neither Dorf nor Muehlberger, whether taken alone or in combination, teaches, shows or even suggests an “intermediary account number,” as recited in claim 40. Risafi fails to cure this shortcoming of Dorf and Muehlberger.

Risafi teaches a method for using a prepaid card that includes purchasing a card issued by an issuer at a retail establishment via an agent terminal, selecting a PIN, selecting the opening account balance, having the card activated at the point of purchase, and, over time, using the card to purchase goods and/or services. The PIN and the card number are transmitted over a communications network to the card processing center to be stored in an account file associated with that card number. Also transmitted and stored in the account file is the amount of value purchased. The balance remaining on the card after a purchase or purchases are made will be kept in the account file.

However, nowhere does Risafi teach, show or suggest an “intermediary account number,” as recited in claim 40. As such, Applicants submit that Risafi fails to further the teaching of Dorf in view of Muehlberger to the level necessary to properly support an obviousness rejection of Applicants’ claim 44 under §103 of the Patent Laws.

Therefore, Applicants submit that the cited combination of Dorf, Muehlberger, and Risafi fails to render claim 44 obvious, as none of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number.” Thus, reconsideration and withdrawal of the rejection of claim 37 under 35 U.S.C. §103(a) over Dorf in view of Muehlberger and further in view of Risafi is respectfully requested.

E. Rejection of Claim 51 under 35 U.S.C. §103(a) over Dorf in view of Hogan and in further view of Carson

Claim 51 was rejected under 35 U.S.C. §103(a) over Dorf in view of Hogan and in further view of Carson. The Office Action took the position that Dorf in view of Hogan teaches each and every limitation recited in the rejected claim 51, except for the account being a cellular phone

account. However, the Office Action cited to Carson as teaching this limitation recited in the rejected claim, and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claim. Applicants respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claim 51 depends from independent claim 48, and therefore includes at least the elements of claim 48, which has been shown above to be allowable. Thus, claim 51 includes at least the element of an “intermediary account number,” as recited in claim 48. As set forth above with respect to claims 35-36, 38-39, 48-49, 52-53, and 57-58, Dorf and Hogan fail to teach, show or suggest an “intermediary account number.”

Carson teaches a method for providing telephone service and cooperatively promoting the sale of telephone usage services by a telephone service provider and the sale of goods and/or services such as lottery tickets associated with a lottery game by a lottery service provider. However, nowhere does Carson teach, show or suggest an “intermediary account number,” as recited in claim 48. As such, Applicants submit that Carson fails to further the teaching of Dorf in view of Hogan to the level necessary to properly support an obviousness rejection of Applicants’ claim 51 under §103 of the Patent Laws.

Therefore, Applicants submit that the cited combination of Dorf, Hogan and Carson fails to render claim 51 obvious, as none of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number.” Thus, reconsideration and withdrawal of the rejection of claim 51 under 35 U.S.C. §103(a) over Muehlberger in view of Risafi is respectfully requested.

F. Rejection of Claim 65 under 35 U.S.C. §103(a) over Dorf in view of Risafi

Claim 65 was rejected under 35 U.S.C. §103(a) over Dorf in view of Risafi. The Office Action took the position that Dorf teaches each and every limitation recited in the rejected claim 65, except for electronically communicating data include interaction with an IVR system via telecommunications. However, the Office Action cited to Risafi as teaching this limitation recited in the rejected claim 65 and concluded that it would have been obvious for one of ordinary skill in the

art to have combined the teaching of the cited references to create the invention recited in the rejected claim. Applicants respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claim 65 depends from independent claim 40, and therefore includes at least the elements of claim 40, which has been shown above to be allowable. Thus, claim 65 includes at least the element of an “intermediary account number,” as recited in claim 40. As set forth above with respect to claims 40-42, 59-61, and 63-64, Dorf fails to teach, show or suggest an “intermediary account number.” Further, as set forth above with respect to claim 44, Risafi also fails to teach, show or suggest an “intermediary account number.”

Therefore, Applicants submit that the cited combination of Dorf and Risafi fails to render claim 65 obvious, as none of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number.” Therefore, reconsideration and withdrawal of the rejection of claim 65 under 35 U.S.C. §103(a) over Dorf in view of Risafi is respectfully requested.

G. Rejection of Claim 56 under 35 U.S.C. §103(a) over Dorf in view of Hogan and further in view of Risafi

Claim 56 was rejected under 35 U.S.C. §103(a) over Dorf in view of Hogan and further in view of Risafi. The Office Action took the position that Dorf in view of Hogan teaches each and every limitation recited in the rejected claim 56, except for purchasing via the Internet. However, the Office Action cited to Risafi as teaching this limitation recited in the rejected claim and concluded that it would have been obvious for one of ordinary skill in the art to have combined the teaching of the cited references to create the invention recited in the rejected claim. Applicants respectfully traverse the rejection and submit that the rejected claims recite limitations that are not taught, shown, or even suggested by the cited prior art, when taken alone or in combination.

Claim 56 depends from independent claim 48, and therefore includes at least the elements of claim 48, which has been shown above to be allowable. Thus, claim 56 includes at least the element of an “intermediary account number,” as recited in claim 48. As set forth above with respect to claims 35-36, 38-39, 48-49, 52-53, and 57-58, both Dorf and Hogan fail to teach, show or suggest an

“intermediary account number.” Further, as set forth above with respect to claim 44, Risafi also fails to teach, show or suggest an “intermediary account number.”

Therefore, Applicants submit that the cited combination of Dorf, Hogan and Risafi fails to render claim 56 obvious, as none of the cited references, when taken alone or in combination, teaches, shows, or even suggests the “intermediary account number.” Thus, reconsideration and withdrawal of the rejection of claim 56 under 35 U.S.C. §103(a) over Dorf in view of Hogan and further in view of Risafi is respectfully requested.

IV. Conclusion

An early formal notice of allowance of claims 35-49 and 51-65 is requested. A personal or telephonic interview is respectfully requested to discuss any remaining issues in an effort to expedite the allowance of this application.

Respectfully submitted,



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